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2
3 UNITED STATES DISTRICT COURT

4 DISTRICT OF NEVADA

5 * * *

6 OMAR RUEDA-DENVERS,

Case No. 3:25-cv-00109-MMD-CLB

7 Petitioner,

ORDER

8 v.

9 NETHANJAH BREITENBACH, *et al.*,

10 Respondents.
11

12 Omar Rueda-Denvers submitted a *pro se* petition for writ of habeas corpus
13 pursuant to 28 U.S.C. § 2254. (ECF No. 1-1.) He has now filed a complete application to
14 proceed *in forma pauperis*, which is granted. (ECF No. 4.) The Court reviewed the petition
15 pursuant to Habeas Rule 4 and directs that it be served on Respondents.

16 A petition for federal habeas corpus should include all claims for relief of which
17 Rueda-Denvers is aware. If Rueda-Denvers fails to include such a claim in his petition,
18 he may be forever barred from seeking federal habeas relief upon that claim. See 28
19 U.S.C. §2254(b). If Rueda-Denvers is aware of any claim not included in his petition, he
20 should notify the court of that as soon as possible, perhaps by means of a motion to
21 amend his petition to add the claim.

22 Rueda-Denvers also submitted a motion for appointment of counsel. (ECF No. 1-
23 2.) There is no constitutional right to appointed counsel in a federal habeas corpus
24 proceeding. See *Luna v. Kernan*, 784 F.3d 640, 642 (9th Cir. 2015) (citing *Lawrence v.*
25 *Florida*, 549 U.S. 327, 336-37 (2007)). An indigent petitioner may request appointed
26 counsel to pursue habeas relief. See 18 U.S.C. § 3006A(a)(2)(B). The decision to appoint
27 counsel is generally discretionary. See *id.* at § 3006A(a)(2) (authorizing appointment of
28 counsel “when the interests of justice so require”). However, counsel is appropriate if the

1 complexities of the case are such that denial of counsel would amount to a denial of due
2 process, and where the petitioner is so uneducated that he is incapable of fairly presenting
3 his claims. See *LaMere v. Risley*, 827 F.2d 622, 626 (9th Cir. 1987); *Brown v. United*
4 *States*, 623 F.2d 54, 61 (9th Cir. 1980). Here, a jury convicted Rueda-Denvers of first-
5 degree murder, and he was sentenced to life in prison without the possibility of parole. At
6 least some of the legal issues he seeks to raise may be complex. In order to ensure due
7 process, the Court grants the motion.

8 It is therefore ordered that Rueda-Denvers's application to proceed *in forma*
9 *pauperis* (ECF No. 4) is granted.

10 It is further ordered that Rueda-Denvers's first incomplete application to proceed
11 *in forma pauperis* (ECF No. 1) is denied.

12 It is further ordered that the Clerk of Court detach, file, and electronically serve the
13 petition (ECF No. 1-1) on Respondents.

14 It is further ordered that that the Clerk add Aaron D. Ford, Nevada Attorney
15 General, as counsel for Respondents and provide Respondents an electronic copy of all
16 items previously filed in this case by regenerating the Notice of Electronic Filing to the
17 Office of the Attorney General only.

18 It is further ordered that the Clerk detach and file Rueda-Denvers's motion for
19 counsel (ECF No. 1-2).

20 It is further ordered that the motion for counsel is granted.

21 It is further ordered that the Federal Public Defender for the District of Nevada is
22 appointed to represent Rueda-Denvers.

23 It is further ordered that the Clerk electronically serve the Federal Public Defender
24 for the District of Nevada a copy of this order, together with a copy of the petition for writ
25 of habeas corpus. (ECF No. 1-1.) The Federal Public Defender for the District of Nevada
26 has 30 days from the date of entry of this order to file a notice of appearance or to indicate
27 to the Court its inability to represent Rueda-Denvers in these proceedings.
28

1 It is further ordered that after counsel has appeared for Rueda-Denvers in this
2 case, the Court will issue a scheduling order, which will, among other things, set a
3 deadline for the filing of an amended petition.

4 DATED THIS 18th Day of April 2025.

A handwritten signature in blue ink, appearing to read 'Miranda M. Du', is written above a horizontal line.

MIRANDA M. DU
UNITED STATES DISTRICT JUDGE